

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

KEILA ALMANZAR
Plaintiffs,

V.

DANIEL ANDRE EAGLESTAR;
WILLIS OF ARIZONA, INC.; SHAMROCK
FOODS, CO. AND JORGE AVITIA
Defendants.

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CIVIL ACTION NO. 3:20-cv-117

DEFENDANTS' NOTICE OF REMOVAL

COMES NOW Defendants Daniel Andre Eaglestar And Shamrock Foods, Co. (collectively "Defendants"), whom pursuant to 28 U.S.C. §§ 1441 and 1446, make and file this Notice of Removal of an action pending in the County Court at Law Number 3 of El Paso County, Texas, Cause No. 2020-DCV-1045, and state as follows:

PRELIMINARY STATEMENT

1. This action belongs in the United States District Court for the Western District of Texas, El Paso Division, because all proper parties are of diverse citizenship and the amount in controversy exceeds \$75,000.00.

PROCEDURAL HISTORY

2. On or about March 20, 2020, Plaintiff Keila Almanzar ("Plaintiff") filed the Original Petition against Daniel Andre Eaglestar And Shamrock Foods, Co. in the County Court at Law Number 3 of El Paso County, Texas, Cause No. 2020-DCV-1045. A true and correct copy of Plaintiff's Original Petition is attached hereto as **Exhibit "B-1."**

3. Plaintiff served Defendant Daniel Andre Eaglestar (“Eaglestar”) with citation on April 3, 2020 by personal service.¹

4. Plaintiff served Defendant Shamrock Foods, Co. (“Shamrock”) with citation on or about April 13, 2020.²

5. Eaglestar and Shamrock timely filed an answer and jury demand in state court on April 17, 2020.³

6. Fewer than thirty days have elapsed since Plaintiff served Eaglestar with the Original Petition and summons.

7. Fewer than thirty days have elapsed since Plaintiff served Shamrock with the Original Petition and summons.

8. Pursuant to 28 U.S.C. § 1446, Defendants attach to this Notice of Removal a true and correct copy of: (1) an index of all matters being filed; (2) all pleadings and answers; (3) executed process currently available to Defendants; (4) all orders signed by the judge; (5) the state-court docket sheet; and (6) a list of all counsel of record and the parties they represent.

9. Written notice of the filing of this Notice of Removal is being filed with the County Court at Law Number 3 of El Paso County, Texas, and provided to Plaintiff as required by the federal rules.

GROUND FOR REMOVAL

A. Diversity Jurisdiction Exists.

10. Removal to this Court is proper pursuant to 28 U.S.C. §§ 1441(a) and 1446 because this is a civil action over which the federal district courts have original jurisdiction. 28

¹ Exhibit D.

² Exhibit C.

³ Exhibits B-2, B-3.

U.S.C. § 1441(a) states that a civil case filed in state court may be removed to federal court if the case could have been originally brought in federal court.

11. This Court has original jurisdiction under 28 U.S.C. § 1332 by reason of diversity of citizenship. Pursuant to 28 U.S.C. § 1332(a), federal district courts have original jurisdiction of all civil actions between citizens of different states where the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

12. At the time this action was first filed, Plaintiff was, and remains, a citizen of the State of Texas. Defendant Eaglestar, was, and remains, an individual who is a citizen of New Mexico. Defendant Jorge Avita was, and remains, an individual who is a citizen of New Mexico. Defendant Shamrock Foods, Co. was, and remains a foreign for-profit corporation incorporated in Arizona, with its principal place of business in Arizona. Thus, it is a citizen of Arizona. Defendant Willis of Arizona, Inc. who merged with and is survived by Willis Towers Watson Insurance Services West, Inc. of California was, and remains, and a foreign for-profit corporation incorporated in Tennessee, with its principal place of business in Tennessee. Thus, it is a citizen of Tennessee.

13. To establish diversity jurisdiction under 28 U.S.C. § 1332(a), the removing party must show that the amount in controversy exceeds \$75,000, exclusive of interests and costs.⁴ In the Original Petition, Plaintiff claims damages of over \$1,000,000.⁵ Therefore, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

⁴ See *White v. FCI USA, Inc.*, 319 F.3d 672, 675 (5th Cir. 2003).

⁵ Exhibit B-1, at ¶ 2.

B. Removal is Timely.

14. A notice of removal must be filed within thirty (30) days after a defendant is served with the state-court petition.⁶ Eaglestar was served with Plaintiff's Original Petition and summons on April 3, 2020.⁷ Shamrock was served on or about April 13, 2020 with the Plaintiff's Original Petition and summons.⁸

15. Defendants file this Notice of Removal on April 29, 2020 within thirty days of the date of service. Therefore, removal is timely.

CONCLUSION

16. Defendants hereby remove this action to the United States District Court for the Western District of Texas. The parties are completely diverse and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendants Daniel Andre Eaglestar And Shamrock Foods, Co., hereby notice the removal of the above action now pending in the County Court at Law Number 3 of El Paso County, Texas.

⁶ See 28 U.S.C. § 1446(b).

⁷ Exhibit D.

⁸ Exhibit C.

Respectfully submitted,

KANE RUSSELL COLEMAN LOGAN PC

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ATTORNEYS FOR DEFENDANTS DANIEL ANDRE
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been sent to all known counsel pursuant to the Texas Rules of Civil Procedure on this the 29th day of April, 2020.

<u>Attorneys for Plaintiff:</u> Veronica Sepulveda Martinez Ida Cecilia Garza Daniel R. Sorrells Law Office of Rogelio Solis, PLLC P. O. Box 3800 El Paso, TX 79923 rogelio@38Ihelp.com veronica@garzamartinezlaw.com cecilia@garzamartinezlaw.com daniel@38Ihelp.com	<u>Attorney for Defendant Jorge Avita:</u> Raymond J. Baeza Law Offices of Daniel G. Acosta 3800 E. Lohman Avenue, Suite B Las Cruces, New Mexico 88011 raymond.l.baeza@farmersinsurance.com
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